

SENATE BILL REPORT

SB 6487

As Reported by Senate Committee On:
Local Government, February 1, 2018

Title: An act relating to the redevelopment of an area overlapping the boundary between two adjacent cities.

Brief Description: Concerning the redevelopment of an area overlapping the boundary between two adjacent cities.

Sponsors: Senators Darneille, O'Ban, Palumbo, Takko, Conway, Liias and Frockt.

Brief History:

Committee Activity: Local Government: 1/25/18, 2/01/18 [DP, DNP].

Brief Summary of Bill

- Allows property owners located in a city or town to petition for annexation into another city or town without the approval of the city or town from which the territory would be taken, prior to June 30, 2021, if certain conditions are met.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass.

Signed by Senators Takko, Chair; Palumbo, Vice Chair; Angel and Liias.

Minority Report: Do not pass.

Signed by Senator Short, Ranking Member.

Staff: Greg Vogel (786-7413)

Background: Direct Petition Method of Annexation. Statutes authorize multiple methods for municipal annexations. Separate sets of statutes detail the annexation procedures for classified cities and code cities. The procedures are similar, but vary in detail. Among other annexation methods, cities—including code cities, non-code cities, and towns—may conduct annexations through a petition-based process involving direct petitions signed by property owners comprising a specific percentage of land value (direct petition method).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The direct petition method is initiated by written notice to the city council of the intention to commence annexation proceedings. The written notice must be signed by a specified number of residents or property owners—or classified cities, not less than 10 percent of the residents in the area to be annexed or the owners of not less than 10 percent of the value of the property for which annexation is petitioned. After being notified of the proposed annexation, the city council must set a date for a meeting with the initiating parties to determine whether the city council will:

- accept, reject, or geographically modify the proposed annexation;
- require the simultaneous adoption of the comprehensive plan; and
- require the assumption of all or of any portion of the existing city indebtedness by the area to be annexed.

There is no ability to appeal the city council's decision on these matters and these decisions must be reflected on the petition if the city council approves or modifies the proposed annexation.

A petition for annexation is then circulated which must ultimately be signed by owners of at least 60 percent of the assessed valuation of the property to be annexed. Upon filing a sufficient petition with the city council, the council may consider it and hold a public hearing for that purpose. Following the hearing, if one is held, the city council may annex all or a part of the proposed area by ordinance. If the annexing city is located in a county with a boundary review board, the city needs the boundary review board's approval in order to approve the annexation. Thus, an ordinance passed by the city to annex the territory is not effective until boundary review board approval is obtained, unless the board determines that review is not necessary or the board's jurisdiction is not invoked.

The owners of property located in a city or town may petition for annexation to another city or town using the direct petition method; however, the legislative body of the city or town from which the territory would be taken must approve the annexation before it may proceed.

Environmental Impact Statement. The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify environmental impacts that may result from governmental decisions, such as the issuance of permits or the adoption of land use plans. The SEPA environmental review process involves a project proponent or the lead agency completing an environmental checklist to identify and evaluate probable environmental impacts. Government decisions that are identified as having significant adverse environmental impacts must then undergo a more comprehensive environmental analysis in the form of an environmental impact statement (EIS). Under SEPA, a government agency is designated as the lead agency and in that role has responsibility for complying with SEPA's procedural requirements, including preparing the EIS when one is required. If the SEPA review process identifies significant adverse environmental impacts, the lead agency may deny a government decision or may condition a proposal by requiring mitigation for identified environmental impacts.

Superfund. The Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, is a federal law that provides broad federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger

public health or the environment. It also establishes liability for the parties responsible for the contamination. Responsible parties can be required to perform cleanups or reimburse the government for cleanup work performed by the Environmental Protection Agency.

Local Improvement District (LID). LIDs are special assessment districts that finance improvements to benefit property owners within the district. LIDs are generally paid for by assessments on the benefitting properties. Subject to certain exceptions, both the city and affected property owners must approve the creation of a LID. LID financing involves the sale of bonds to investors and the retirement of those bonds via annual payments by the property owners within a LID.

Summary of Bill: Property owners located in a city or town may petition for annexation into another city or town using the direction petition method without the approval of the city or town from which the territory would be taken if certain conditions are met with respect to: (1) the area to be annexed; and (2) the city to which the area would be annexed. Annexations under this method may only be conducted prior to June 30, 2021, and are not subject to potential review by a boundary review board.

The area to be annexed must meet the following conditions:

- is 50 or fewer acres;
- is part of a master development project for which an EIS has been issued under SEPA;
- is less than 50 percent of the total area of the master planned development project, as described in the final EIS;
- includes 200 or more lineal feet of shorelines of the state; and
- is designated, in whole or in part, as a Superfund site or is subject to remediation under the Model Toxics Control Act.

The city to which the territory would be annexed must meet the following conditions:

- was incorporated as a first class city and has a population of 150,000 or more;
- has more than 50 percent of the total area of the master planned development project within its corporate boundaries;
- acted as the lead agency in conducting the environmental review of the master planned development project;
- issued one or more development permits for the master planned development project that is consistent with the final environmental impact statement; and
- formed a local improvement district that includes, in whole or in part, the property comprising the master planned development project and has issued bonds to fund the construction of the local improvements that benefit the entirety or a portion of the property for which annexation is proposed.

Additional requirements apply to annexations meeting the above criteria:

- if the annexing city adopts any land use regulations for the annexed area, the regulations regarding building height limits must be consistent with those that applied to the territory to be annexed prior to the annexation;
- the annexing city must maintain the master development plan in the annexed area that existed prior to the annexation;

- all property owners in the annexed area that owe taxes to the city from which territory will be annexed must become current on all unpaid property taxes before the annexation can be finalized;
- the annexing city must continue providing utility services to the city from which the territory is annexed in the same manner that they were provided prior to the annexation; and
- after a petition for annexation is approved by the annexing city by ordinance, the annexing city and the city from which territory is annexed must submit to binding arbitration on the following issues:
 1. what portion of tax revenues generated by the territory to be annexed will be remitted by the annexing city to the city from which the territory was annexed on an ongoing basis after the annexation is complete—the amount must be sufficient to maintain the city from which the territory is annexed as an economically viable city;
 2. how the city from which territory is annexed will be compensated for unpaid permit and inspection fees incurred through development in the annexed area; and
 3. any other disputes arising from the annexation.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill was written with a legislative delegation from the 27th district to not only address the process of annexation, which is narrowly drawn in the bill, but also to provide mitigation to a community. There has long been interest in the particular conundrum occurring in Point Ruston. The house bill in 2015 was a shot across the bow to get the parties to talk about their mutual goal of development at the site. This bill has a robust mitigation package for the city of Ruston, by smoothing the reduction in the property tax loss and providing payment by the developer for bills in arrears. Additionally, it still adheres to the plans for development, has an arbitration process for further disputes, and continues contracts for public services. This is not a final process for the bill. It can be fine-tuned and the deadline can be extended. This project is too important to economic security in the Northwest and is a last ditch effort to move one of the last superfund sites into a waterfront urban village.

The Tacoma side of Point Ruston is a great place, a vibrant, master-planned community. In stark contrast is the portion of development that is just yards away, which could be referred to as concrete lite—a parking garage and undeveloped concrete foundations. Tacoma citizens are being hurt and are at greater risk every day the project is delayed. Tacoma is due \$31 million on local public improvements that were provided for both sides of the project. This bill is supported by the Lieutenant Governor, who wants to see permitting processes in local government that work effectively so businesses can move forward. Further, the bill is about business certainty. This is the eighth year in the process of a \$1.2 billion investment.

It is a safety issue as well. Residents are happier on the Tacoma side because of the emergency response times.

CON: Ruston opposes this legislation, which jeopardizes years of planning and investment in a commercial center for its citizens. The city needs the revenue from the project, because the city has struggled since the smelter was shut down—trying to run services on a shoe string, without this development. The project is phased—phase one is all in Tacoma, phase two is half in Tacoma and half in Ruston. The city is controlled by a master development plan, and a zoning requirement that is different between the two cities, which has caused some difficulty for the developer. The city would love to have businesses to generate revenue.

This bill pits cities against cities, which is one of the reasons AWC opposes this bill. It also flies in the face of the GMA and careful planning by cities. The developer has been changing the master plan along the way, sometimes with proper amendment procedures, and sometimes without. This bill is a blatant attempt by a municipality and developer to skirt the requirements of law and is a land grab from Ruston. It sends a signal that a big city can step on the small, setting a dangerous precedent, showing how with a little legal maneuvering, one jurisdiction can take from another.

Persons Testifying: PRO: Senator Jeannie Darneille, Prime Sponsor; Sharon Coleman, Residents of Point Ruston; Denny Eliason, Residents of Point Ruston; Natasha Wortham, Office of the Lieutenant Governor; Marilyn Strickland, former Mayor of Tacoma; Ryan Mello, City of Tacoma councilman; Tom Pierson, Pierce County Chamber of Commerce; Margo Haas Klein, citizen; Tara Doyle Enneking, Chamber of Commerce Board; Tim Thompson, Point Ruston Development; Ryan Mudie, IAFF Local 31; Anders Ibsen, Tacoma City Council member.

CON: Bruce Hopkins, Mayor, City of Ruston; Jennifer Robertson, City Attorney, City of Ruston; Joe Kabel, citizen; Dave Thwaites, citizen; Mary Byrne, citizen; Randy Plain, citizen; John Holland, citizen; Kevin Moser, citizen; Calvin Hewitt, citizen; Kathleen Hewitt, citizen.

Persons Signed In To Testify But Not Testifying: No one.